

Notice of Allowability

Application No.

09/841,843

Examiner

Joseph T. Weitach

Applicant(s)

BODE ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final of March 17, 2005.
2. ☒ The allowed claim(s) is/are 12-14 and 18.
3. ☒ The drawings filed on 4/25/2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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DETAILED ACTION

This application filed April 25, 2001, is a continuation of application 09/257,561, filed February 25, 1999, now abandoned, which claims benefit to foreign application 98 103 490.3 filed February 27, 1998 with the EPO.

Applicants after final amendment filed March 17, 2005 has been received and entered. Claims 1-11, 15-17 have been cancelled. Claim 18 has been amended. Claims 12-14 and 18 are pending.

Election/Restriction

Applicant's election of Group I in Paper No. 6 was acknowledged.

Information Disclosure Statement

Upon review of the file it was noted that the second page of the information disclosure statement (IDS) submitted on July 30, 2001 (paper number 4) was not initialed and signed. The information disclosure statement (IDS) submitted on July 30, 2001 is in compliance with the provisions of 37 CFR 1.97 and the reference provided in the IDS have been considered during prosecution. Accordingly, the information disclosure statement is being considered by the examiner.

A copy of the signed complete IDS is included with this action.

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Examiner's Amendment

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on April 12, 2005, Mr. Thomas W. Cunningham requested an extension of time for a one MONTH and authorized the Director to charge Deposit Account No. 02-3978 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claim 14, after 'The method of claim' delete [1] and insert "12" therein.

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Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

As indicated previously, claim 12 is free of the art of record because the art fails to teach that using the F3 FRT site sequence would result in at least a 25% recombination frequency as required by the instant claims. While multiple FRT sites have been used, there was no specific teaching that the use of F3 would result in the frequency required by the instant claims. Newly added claims recite specific selection genes and cell types fully considered in the prosecution of the application and are reduced to practice in the working examples of the instant specification. Claim 14 has been amended to be dependent on pending claim 12, in which it finds antecedent basis in step (c).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached at (571) 272-073.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Woitach

JOSEPH WOITACH, P.
PRIMARY EXAMINER


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